

PLANNING DEPARTMENT - BOARD OF ADJUSTMENT

ACTION SHEET

TO: John P. Bohenko, City Manager

FROM: Mary Koepenick, Planning Department

RE: Actions Taken by the Portsmouth **Board of Adjustment regular meeting on July 18, 2006** in the Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, New Hampshire

PRESENT: Chairman Charles LeBlanc, Vice Chairman David Witham, Steven Berg, Alain Jousse, Arthur Parrott, Alternates: Duncan MacCallum, Henry Sanders

EXCUSED: Robert Marchewka

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I OLD BUSINESS

- A) Approval of Minutes – March 21, 2006
- Approval of Minutes - April 18, 2006
- Approval of Minutes – April 25, 2006

It was moved, seconded and passed unanimously to accept the Minutes of April 18, 2006 and April 25, 2006 as amended.

The Minutes of March 21, 2006 were not accepted, but will be resubmitted with additional detail in the decision sections at the July 25, 2006 meeting.

B) Petition of **Lawrence N. and Ruth S. Gray, owners**, for property located at **80 Curriers Cove** wherein an Equitable Waiver of Dimensional Requirement per RSA 674:33-a is requested to allow the 2002 conversion of a screened porch to living space (Building Permit # 11359) where the Site Plan and construction drawings showed the screened porch of different sizes. The existing structure complies with the Building Permit and construction drawings, however those drawings and permits were based on an error with the dimensions of an existing deck not discovered by the owner until after the permits were issued and constructed. Said property is shown on Assessor Plan 204 as Lot 14 and lies within the Single Residence A district. (This petition was tabled at the June 27, 2006 Board of Adjustment meeting.)

After consideration, the Board voted to deny the request as the criteria necessary for the granting of an Equitable Waiver of Dimensional Requirement were not met.

B) Petition of **Fred Lowell and Al McElaney, owners** of property located at **62 Deer Street** wherein appeals pursuant to RSA 676:5 and 674:33(I)(a) are requested with regard to the Planning Board’s decision to recommend denial of a Driveway Permit Application. Said

property is shown on Assessor Plan 118 as Lot 27 and lies within the Central Business B, Downtown Overlay and Historic A districts. (This petition was tabled at the June 27, 2006 Board of Adjustment meeting.)

The Board of Adjustment concluded that it does not have the authority to hear this matter and, therefore, the Board declined to hear this request.

D) Request for One-Year Extension of Variance granted August 19, 2005 for property located at **69-73 Prospect Street**.

After consideration, the Board voted to grant the Variance Extension through August 15, 2007.

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II. PUBLIC HEARINGS

1) Petition of **Sea Ray Realty LLC, owner**, for property located at **445 Route 1 By Pass** wherein a Variance from Article IV, Section 10-402(B) is requested to allow a 19' x 44' garage with a 10' rear yard and a 10' left side yard where 15.5' is the minimum required for both. Said property is shown on Assessor Plan 234 as Lot 3 and lies within the Office Research district.

After consideration, the Board voted to grant the petition as presented and advertised for the following reasons:

- There is no benefit to the public in requiring the removal of the existing foundation and relocation of the garage.
- The garage will be tucked into the rear corner, not interfering with established parking and travel aisles.
- It would not be reasonable to require an expensive new foundation to bring the garage into compliance with the ordinance.
- Features of the replacement structure will be more protective of the wetlands, benefiting the neighborhood.

2) Petition of **Fredrick I. McMullen, owner, and Stephen Sargent d/b/a Tokyo Joe's Studios, applicant**, for property located at **1262 Woodbury Avenue** wherein a Variance from Article II, Section 10-207 is requested to allow a martial arts school with a maximum of 20 students in a district where such use is not allowed. Said property is shown on Assessor Plan 237 as Lot 67 and lies within the Mixed Residential Business district.

After consideration, the Board voted to grant the petition as presented and advertised for the following reasons:

- The use will be complimentary to others in the neighborhood.
- A hardship would be created by not permitting a use which meets the spirit of the ordinance but is not specifically named as an allowed use.
- There will be less traffic generated than with previous uses in the building.
- There will be no impact on the value of surrounding properties.

3) Petition of **Mark R. Neubauer, owner**, for property located at **101 Marne Avenue** wherein a Variance from Article III, Sections 10-301(A) and 10-302(A) are requested to allow a 32' x 40' two story single family dwelling with a 6' x 30' front porch and accessory shed on a lot having less than 100' of frontage and 6,794 sf of lot area where 100' of frontage and 7,500 sf of lot area is the minimum required. Said property is shown on Assessor Plan 222 as Lot 44 and lies within the General Residence A district. Case # 7-3

After consideration, the Board voted to grant the petition as presented and advertised for the following reasons:

- The lot is located at the end of a dead-end street and with the surrounding lot configuration, there will be no infringement on the public or neighbors.
- The lot predates zoning and there is no way to meet the frontage and lot coverage requirements without purchasing additional land, which is not feasible.
- The new structure will be no wider than the existing structure and will meet most of the dimensional requirements in the ordinance.
- The impact on the neighbors, many of whom signed a petition of support, will be minimal.

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II. ADJOURNMENT.

The motion was made, seconded and passed to adjourn the meeting at 9:05 p.m.

Respectfully submitted,

Mary E. Koepenick, Secretary